

levied as aforesaid be and the same are hereby validated, in so far as any contest of or attack on same as being made at any such special term or under orders made at any such special term is concerned, and no action shall be maintained or defense interposed in any court of this State, the effect of which would be to prevent or defeat the collection of said taxes, or any part thereof, on account of or arising out of the levies made as aforesaid and otherwise regular and legal, and said action and orders of said special terms are by this act validated, in so far as being made at a special term instead of a regular term of such commissioners court; provided, that nothing herein contained shall be construed to validate the title to any lands sold for taxes under judgments rendered prior to the taking effect of this act.

SEC. 2. The fact that litigation is pending and threatened in one or more counties in this State with the purpose of enjoining, preventing and defeating the collection of delinquent county taxes, regularly and legally levied, assessed and incurred by the proper authorities, except for the technical irregularities hereby validated and cured, and the probability that said counties will be thereby financially embarrassed and crippled, and the great injustice which would thereby be done to other citizens of said counties who have paid their taxes so levied, creates an emergency and an imperative public necessity authorizing the suspension of the constitutional rule requiring all bills to be read on three several days in each house, and that this act should take effect at once, and be in force from and after its passage, and said constitutional rule is hereby suspended, and it is hereby enacted that this act shall take effect at once and be in force from and after its passage.

[NOTE.—The enrolled bill shows that the foregoing act passed the House of Representatives by the following vote, yeas 93, nays 0; and passed the Senate by the following vote, yeas 26, nays 0.]

Approved May 16, 1907.

Became a law May 16, 1907.

LANDS—PROVIDING FOR SALE AND LEASE OF.

H. B. No. 67.]

CHAPTER XX.

An Act to amend Sections 5 and 6 of Chapter 103, passed by the Regular Session of the Twenty-ninth Legislature, and approved April 15, 1905, relating to the sale and lease of the land belonging to the public free school and asylum funds, and to add thereto Sections 6a, 6b, 6c, 6d, 6e, 6f and 6g, relating to the sale, settlement and residence on land, sales without residence, sale of timber, sales for cash or on time, transfers, forfeitures, reservation of minerals, guayule, lechuguilla, and providing a penalty for cutting or removing such substances from the land, certificates of occupancy to become muniments of title, authorizing the Commissioner to adopt rules and regulations necessary to execute the provisions of this act, repealing all laws in conflict with this act, and declaring an emergency.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Sections 5 and 6, Chapter 103, approved April 15, 1905, shall be amended so as to hereafter read as follows:

Rights of Lessees.

Sec. 5. An original lessee of a lease executed prior to April 15, 1905, who has never parted with any interest in his lease except by purchase, may purchase out of such lease in whole surveys only, one complement of sections or such part thereof as will make his total purchase since April 19, 1901, not to exceed eight or four sections, according to the county; provided an original lessee who has not heretofore exercised his right to buy one complement of sections out of one or more leases and should not hereafter desire to do so, may assign one or more leases to a qualified purchaser and his assignee shall have the same right to purchase out of the leases one complement of sections, or such number thereof as the assignor may be qualified to purchase or such number as the assignee may be qualified to purchase; provided that in case the assignment should have been made and acknowledged before an officer authorized to take acknowledgments the assignee may exercise that right as provided for under the Act of April 15, 1905. Only one complement shall be sold out of any lease, including that heretofore sold out of it. One who desires to buy land out of his lease shall first give written notice to the Commissioner of the General Land Office and specify the land he wants to buy not less than sixty days prior to expiration of the lease. The Commissioner shall make or cause to be made an inspection of the land, if he is not already in possession of sufficient information, and appraise same at its reasonable market value, and advise such person and the proper county clerk of the value placed thereon. Thereafter the land shall be subject to sale to the lessee only during the life of the lease. After a lease expires or is cancelled, no one shall have any preference to purchase any land contained therein.

Eight Section Counties—Complement of Land.

Sec. 6. One who has not purchased any land since April 19, 1901, may purchase, on condition of settlement, in the counties of Brewster, Crockett, Edwards, El Paso, Jeff Davis, Kinney, Pecos, Presidio, Sutton, Terrell and Val Verde not to exceed eight sections of 640 acres each, more or less, which are wholly within said counties. One who has heretofore or who may hereafter purchase a complement as aforesaid, shall not purchase any more. One who has purchased or may hereafter purchase on condition of settlement four sections of 640 acres each, more or less, wholly or partly within any county other than those hereinabove named since said date, shall not purchase any more on condition of settlement. One who has purchased less than a complement as aforesaid may hereafter purchase in any county, such number of sections as his lack of a complement in the county of the former purchase bears to a complement in the county of such former purchase. One who has heretofore purchased land on condition of settlement which lies partly within an eight-section county and partly within a four-section county shall be considered for the purpose of future purchase by him as having purchased in a four-section county. Every additional survey applied for shall be situated within five miles of the designated home tract except the survey on which the lessee, who may apply to buy out of his lease, may have placed permanent and immovable improvements of the value

of five hundred dollars, need not be within such radius. No survey shall be sold in any county except as a whole, notwithstanding it may be leased in two or more parts.

Seco. 2. Add thereto Sections 6a, 6b, 6c, 6d, 6e, 6f and 6g, as follows:

Settlement and Residence.

Sec. 6a. All of the surveyed school land wholly or partly within the counties of Andrews, Brewster, Cameron, Crane, Crockett, Dimmit, Duval, Ector, Edwards, El Paso, Gaines, Hidalgo, Jeff Davis, Kimble, Kinney, La Salle, Loving, Maverick, McMullen, Midland, Pecos, Presidio, Reeves, Starr, Sutton, Terrell, Terry, Upton, Uvalde, Val Verde, Ward, Webb, Winkler, Yoakum, Zapata and Zavala shall be sold on condition of settlement as provided by this act and existing statutes, except tracts of one hundred acres or less shall be sold for cash. The land purchased by one either for cash or on deferred payment without condition of settlement shall not be computed against him in his purchase on condition of settlement. Every purchaser on condition of settlement shall in person reside continuously on either the designated home tract or on some portion of the land purchased as additional thereto for three consecutive years next succeeding the date of the award of the home tract, or from the date of the award of the first tract, as additional to a home already owned, as the case may be, including the ninety days allowed to settle. The proof of such settlement and residence shall be made as now provided by statute.

Sales Without Settlement.

Sec. 6b. The surveyed school and asylum land and the timber thereon situated wholly within any county other than those named in the preceding section and which is now unsold shall be advertised and subject to sale on November 1, 1907, and not before, and to the one offering the most therefor and in whole tracts only. On said date the said land and timber thereon shall be subject to sale and so remain until sold. The said land shall be sold in whole tracts only without condition of settlement or limit as to quantity and either for cash with the right to patent at once, or for one-fortieth cash with five per cent interest on the deferred payment, together with all the pains and penalties of forfeiture for non-payment as is now or may hereafter be provided by law. When any such purchase is fully paid for the land may be patented. No land on which there is merchantable timber shall be sold until the timber is sold for cash and fully paid for. Should two or more applicants offer the same price for any tract on the same date, the same being the highest price offered, and one should offer full cash payment and another should offer one-fortieth cash payment and balance on time, the application on deferred payment shall be accepted. Such of the land in the counties included within this section as is now sold but which may hereafter become subject to sale shall not be subject to sale until the former sale shall have been cancelled and the land and timber, if any thereon, shall be reappraised by the Commissioner and a date fixed, not more than sixty days from the date of such cancellation, when it may be subject to sale to the one offering the highest price therefor. Notice of such can-

cellation and reappraisement shall be mailed to the proper county clerk, together with the date when the land and timber, if any, will be subject to sale.

Timber and Land.

Sec. 6c. One who applies to purchase the timber shall file his application in writing in the General Land Office in the manner now provided for the filing of applications for the purchase of land, and pay to the State Treasurer the full cash payment according to the price offered therefor, but not at a less price than that fixed by the Commissioner. Should two or more persons each apply to purchase the timber and land on the same day and one should offer more for the timber but less for the land than a competitor, then the one offering the highest price for the timber shall have an option for thirty days, as now provided by law for designating home tracts, to take the land at the highest price offered by such competitor. Should the one offering the highest price for the timber not want the land at such highest price, but should want the timber, it shall be awarded to him. Should one who applies for both timber and land offer the highest price for the land, but a lower price for the timber, he shall have an option of thirty days as aforesaid to purchase the land if it should not be purchased by the one who offers the highest price for the timber, but should the one who offers the highest price for the timber and the lesser price for the land not want the land at such high price, nor should he exercise his option by purchasing the timber alone, then the land and timber shall be awarded to the one offering the highest price for the land and next highest price for the timber. The Commissioner shall appraise all timber at its reasonable market value, and it shall not be sold at a price less than that so fixed by him. Should two or more applications for timber alone be filed on the same day, the one offering the most therefor shall be accepted. All timber shall be sold in full tracts. The purchaser of timber without the land shall have the right of ingress and egress upon the land for a period of five years after date of award for the purpose of removing or protecting the timber thereon, and the purchaser shall be entitled to all the timber thereon for that period and no longer. After that time the title to the timber shall revert to the fund to which the land belonged and be again subject to sale by the State unless the land shall sooner be sold and fully paid for and patent issued thereon, and in that event the timber shall revert to the owner of the land. The owners of timber heretofore purchased which has not been removed and the five years in which to remove same or to purchase the land have not expired, but may expire on or before November 1, 1907, may purchase the land on that date at the price fixed by the Commissioner and without condition of settlement, either for cash or on deferred payment, with five per cent interest as provided in this act for other purchasers without settlement. In case the five years do not expire before said date, only the owner of the timber shall have the right to purchase the land as herein provided at any time prior to the removal of the timber and within the five years allowed in which to remove same. Land on which timber has heretofore been sold and the timber has been or may be removed, or the five years shall have expired and the land not purchased by the owner of the timber, shall not be sold until it is re-classified and reappraised by the Commissioner

and a date fixed not more than sixty days after such action for the sale thereof. Notice of such action and date fixed for sale shall be mailed to the proper county clerk.

Transfers.

Sec. 6d. One who hereafter buys land on condition of settlement shall not sell any part of such purchase prior to one year after date of award of the home tract, nor prior to one year after date of the award of the first additional tract purchased to a formerly acquired home unless the required residence has sooner been completed. After the lapse of the time aforesaid the purchaser may sell all of his land or any part thereof in whole tracts, according to his purchase, to another qualified purchaser, who will become an actual bona fide settler on some part thereof at date of his transfer if the residence is not complete, and such assignee shall complete the residence on the land by continuous residence thereon as required of his vendor, and if the vendor does not sell all of his purchase he shall continue to reside upon his home tract or on some part of that retained until the completion of the residence required of him. A purchaser on condition of settlement under this act, or any former law, who may have the right to sell his land or a part of it, may sell his whole home tract or one or more of his additional tracts as a whole, according to his purchase to another purchaser who owns a designated home tract within five miles of each of such tracts as he may purchase as assignee, and the assignee may take each of the tracts as additional to his own designated home tract; provided the total tracts so purchased by an assignee prior to the completion of the residence of the vendor, together with the former purchase of the assignee, shall not exceed one complement of sections. In such cases the assignee shall continue to reside in person upon either his formerly designated home tract, or on one of his formerly acquired additional tracts, or on one of his additional tracts purchased as assignee, continuously until the completion of the residence required of him under his former purchase and that of his vendor. No tract hereafter purchased shall be transferred except as a whole prior to the issuance of patent thereon, but should a transfer of less than a whole tract be made after the purchaser has the right to sell in whole tracts under the provisions of this act, such transfer shall not be void, but the owner shall not be substituted as assignee on the records of the Land Office nor recognized on the accounts kept by the State Treasurer. The failure to pay the interest on the whole of such tract shall operate as a forfeiture of every part thereof.

General Provisions.

Sec. 6e. One who has heretofore or who may hereafter purchase land out of a lease or otherwise, on condition of settlement in the counties named in Section 6a of this act, and fails to settle thereon within the required time, or fails to file in the Land Office his affidavit of settlement within the required time, or fails to comply with the law as to residence on the land, or executes a transfer contrary to the provisions of this act, except those stated in this act as not being void, he shall forfeit the land and all payments made thereon to the fund to which the land belongs and when the Commissioner shall be sufficiently informed of the facts

which operate as a forfeiture, he shall cancel the award or sale by noting the act of forfeiture on the obligation and mail notice of that fact to the proper county clerk. Such land shall not be subject to sale again at a less price than the former sale price unless the Commissioner shall have re-appraised the land at a less price after noting the act of forfeiture.

All applications for the purchase of land without settlement and either for cash or on deferred payment shall be in writing and accompanied by the affidavit of the applicant that he desires the land for his own benefit and not for any other person or corporation. An application on deferred payment shall be accompanied by the obligation for the balance of the purchase money conditioned as now provided by statute. No application shall be considered if the cash payment is not in the State Treasury as now provided by law. If for any cause an application for land or timber which offers the highest price can not be accepted, those offering the next highest price and filed on same day shall be considered in their order of price until one may be awarded.

All surveys and unsold portions of surveys shall be sold as a whole. All unsurveyed tracts of 640 acres or less shall be sold as a whole, and all tracts of more than 640 acres shall be sold in such tracts as may be required or approved by the Commissioner. No one shall hereafter have any preference to purchase any unsurveyed land except as provided in this act for original lessees out of leases.

All tracts containing one hundred acres or less wheresoever situated shall be sold for cash and without condition of settlement.

All applications to purchase land, under any preference right, which were filed in the Land Office prior to the taking effect of this act shall be accepted.

No corporation shall purchase any land under the provisions of this act.

Minerals, Gayule and Lechuguilla Reserved.

Sec. 6f. The land which is now or may hereafter be classed as mineral, may be sold for agricultural or grazing purposes, but all sales of such land shall be upon the express condition that the minerals, shall be and are reserved to the fund to which the land belongs and such reservation shall be stated in all applications to purchase; provided, should any person who has no authority or right to do so cut or remove any mineral, gayule or lechuguilla from the land belonging to the public free school fund, he shall be deemed guilty of a misdemeanor and upon conviction shall be fined in a sum not less than ten dollars nor more than one thousand dollars and in addition thereto judgment shall be rendered against the defendant in behalf of the State in a sum of money equal to the value of the substance so cut or removed, which shall be collected as under execution, and when collected the money shall be remitted to the State Treasurer and by him credited to the fund to which the land belongs. The Commissioner shall adopt all the necessary rules and regulations for the execution of the several provisions of this act.

Certificates of Occupancy.

Sec. 6g. If a proof of occupancy has heretofore been or should hereafter be filed in the General Land Office, in accordance with the statute

under which the purchase was made or may be made, and it should be approved by the Commissioner by the issuance of the certificate of its sufficiency, the said certificate may be recorded in the office of the clerk of the county or counties in which the land is situated and shall thereafter be a muniment of title of the home tract and additional land purchased to such home tract.

SEC. 3. All laws and parts of laws in conflict with the provisions of this act are hereby repealed.

SEC. 4. The fact that the law providing for the sale of land out of leases to assignees is an unjust discrimination against the public and the fact that the substances mentioned in this act as being upon the public school land and reserved to the school fund should have some protection at the earliest practicable date creates an imperative public necessity and an emergency exists that the constitutional rule requiring bills to be read on three several days be suspended and this bill be placed upon its third reading and final passage and take effect from and after its passage, and it is so enacted.

Approved May 16, 1907.

Takes effect ninety days after adjournment.

TAXES—INHERITANCE TAXATION.

H. B. No. 13.]

CHAPTER XXI.

An Act to tax property passing by will or by descent or by grant or gift; taking effect on the death of the grantor or donor.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. All property within the jurisdiction of this State, real or personal, corporeal or incorporeal, and any interest therein, whether belonging to inhabitants of this State or not, which shall pass, absolutely or in trust, by will, or by the laws of descent of this or any other State, or by deed, grant, sale or gift, made or intended to take effect in possession or enjoyment after the death of the grantor or donor, shall upon passing to or for the use of any person except the father, mother, husband, wife or direct lineal descendants of the testator, intestate, grantor or donor, or any public corporation or charitable, educational or religious organization within this State when such bequest, gift or devise is to be used for charitable, educational or religious purposes within this State, be subject to a tax for the benefit of the State, as follows:

(1) If passing to or for the use of a lineal ascendant or a brother or sister, or a lineal descendant of a brother or sister, the tax shall be two per cent on any value in excess of two thousand dollars, and not exceeding ten thousand dollars; two and one-half per cent of any value in excess of ten thousand dollars, and not exceeding twenty-five thousand dollars; three per cent on any value in excess of twenty-five thousand dollars, and not exceeding fifty thousand dollars; three and one-half per cent on any value in excess of fifty thousand dollars, and not exceeding one hundred thousand dollars; four per cent on any value in excess of one hundred thousand dollars, and not exceeding five hundred